

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 97-467-C - ORDER NO. 98-165
MARCH 5, 1998

IN RE:APPLICATION OF NEWSOUTH)	
COMMUNICATIONS, LLC FOR A)	ORDER
CERTIFICATE OF PUBLIC)	GRANTING
CONVENIENCE AND NECESSITY)	APPLICATION
TO PROVIDE LOCAL EXCHANGE)	
AND LONG DISTANCE)	
TELECOMMUNICATIONS)	
SERVICES)	
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This matter comes before the Public Service Commission of South Carolina ("the Commission") by way of the Application of NewSouth Communications, LLC ("NewSouth" or "the Company") for authority to provide Local Exchange and Long Distance Telecommunications Service within the State of South Carolina. The Application was filed pursuant to S.C. Code Ann. §§ 58-9-280 and 56-9-520 and the Regulations of the Commission.

By letter, the Commission's Executive Director instructed NewSouth to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. NewSouth complied with this instruction and provided the Commission with proof of publication of the Notice of Filing.

A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC"). Counsel for SCTC filed a Stipulation on December 11, 1997, in which NewSouth stipulated that it would only seek authority in non-rural local exchange ("LEC") service areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent's service area, unless and until NewSouth provided written notice of its intent prior to the date of the intended service. NewSouth also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. NewSouth agreed to abide by all State and Federal laws and to participate to the extent it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to NewSouth provided the conditions contained in the Stipulation are met. The Stipulation is approved and attached hereto as Exhibit 1.

A hearing was commenced on February 18, 1998, at 11:30 a.m., in the Commission's Hearing Room. The Honorable Guy Butler, Chairman, presided. NewSouth was represented by Frank R. Ellerbe, III, Esquire. F. David Butler, General Counsel, represented the Commission Staff.

Michael LaFrance, President and Chief Executive Officer of NewSouth, appeared and offered testimony in support of NewSouth's application. The record reveals that

NewSouth is a limited liability corporation organized under the laws of the State of South Carolina. According to Mr. LaFrance, NewSouth proposes to offer local exchange and along distance telecommunications services. NewSouth is installing a state of the art Lucent 5ESS-200-12 End Office Switching Platform in Greenville and will offer facilities based local services comparable to the services offered by the incumbent LEC's. NewSouth proposes to offer long distance services using resold transmission services of underlying carriers which are duly certified by the Commission.

Mr. LaFrance explained that NewSouth proposes to provide intrastate and interstate local and long distance telecommunications services to residential and commercial customers for the direct transmission and reception of voice, data, and other types of telecommunications. Further, LaFrance's prefiled testimony reveals that NewSouth believes that approval of its Application will increase availability of affordable local services for South Carolina's local market and increase competition for basic local exchange services which will offer customers in South Carolina a wider range of product offerings, innovative technologies, improvements in the quality of service, and reductions in the cost to consumers for telecommunications services. No party of record offered any evidence that the provision of local exchange service by NewSouth will adversely affect local rates.

Mr. LaFrance also explained that NewSouth possesses the technical, financial, and managerial abilities to provide its services in South Carolina. Finally, Mr. LaFrance testified that the Company would operate in accordance with the Commission rules,

regulations, guidelines and Commission Orders. The record reveals NewSouth's services, operations and marketing procedures.

After full consideration of the applicable law, the Company's application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. NewSouth is organized as a limited liability corporation under the laws of the State of South Carolina.

2. NewSouth wishes to provide all local exchange services presently offered by incumbent local exchange carriers as a facilities -based carrier and as a reseller of local services. NewSouth wishes to provide long distance telecommunications services as a reseller, and to some limited degree, through facilities-based operations.

3. The Commission finds that NewSouth possesses the technical, financial, and managerial resources sufficient to provide the service requested.

4. The Commission finds that NewSouth's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. § 58-9-280(B)(3) (Supp. 1997).

5. The Commission finds that NewSouth will support universally available telephone service at affordable rates.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to NewSouth to provide competitive intrastate local exchange services in the non-rural area local exchange service areas and to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), directory assistance, travel card service or any other services authorized for resale by tariffs of carriers approved by the Commission. Any proposal to provide local exchange service to rural service areas is subject to the terms of the Stipulation between NewSouth and SCTC.

2. For its local service offerings, NewSouth proposed a maximum rate design by which it would file a set of maximum rates at levels fifteen percent (15%) above the current rates of BellSouth. The Commission adopts a rate design for NewSouth's local service offerings which permits NewSouth to file its proposed schedule of maximum rates as requested along with a price list reflecting the actual prices being charged.

With regard to NewSouth's local exchange service tariff filings, NewSouth requested that its local exchange service tariff filings be presumed valid upon filing, subject to the Commission's right within seven (7) days to institute an investigation of the tariff filing, in which case such filing would be suspended pending further order of the Commission; and that any such tariff filings will be subject to the same monitoring

process as similarly situated competitive local exchange carriers. Upon consideration of NewSouth's requested treatment of its local exchange service tariff filings, the Commission finds and concludes that NewSouth's local tariff filings shall be presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing. If the Commission institutes an investigation of a tariff filing, then the tariff filing will be suspended until further Order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers. The Commission believes that this process will allow NewSouth, as a competitive local exchange carrier, the flexibility to compete in the marketplace but will also allow for protection of the consumer through the Commission's investigate process.

3. NewSouth shall file, prior to offering local exchange services in South Carolina, its final tariff of its local service offerings. The final tariff shall include New South's Maximum Rate Schedule and Price List. Further, the final tariff shall conform to all matters discussed with Staff and shall comport with South Carolina law in all matters.

4. The Commission adopts a rate design for NewSouth for its resold long distance services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GET Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

With regard to its long distance services rates, NewSouth shall not adjust its rates below the approved maximum level without notice to the Commission and to the public. NewSouth shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. § 58-9-540 (Supp. 1997).

5. If it has not already done so by the date of issuance of this Order, NewSouth shall file its revised maximum long distance tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

6. NewSouth is subject to access charges pursuant to Commission Order No. 86-584 in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

7. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

8. NewSouth shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If NewSouth changes underlying carriers, it shall notify the Commission in writing.

9. With regard to the origination and termination of toll calls within the same LATA, NewSouth shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993).

10. NewSouth shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A.

11. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

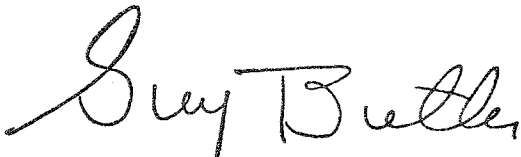
NewSouth shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order.

Attachment B shall be utilized for the provision of this information to the Commission, Further, the Company shall promptly notify the Commission in writing if the representatives are replaced, and the Company is directed to comply with the Commission regulations unless waived by the Commission.

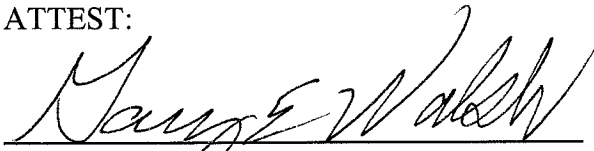
12. NewSouth shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

13. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)

BEFORE
THE PUBLIC SERVICE COMMISSION
OF
SOUTH CAROLINA

Docket No. 97-467-C

Re: Application of NewSouth Communications, LLC)
for a Certificate of Convenience and)
Necessity to Provide Local Exchange and) **STIPULATION**
Intrastate Long Distance Telecommunications)
Services in South Carolina)
_____)

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and NewSouth Communications, LLC ("NewSouth") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, the necessity for SCTC's intervention in this matter is avoided and SCTC withdraws its opposition to NewSouth's Application. SCTC and NewSouth stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to NewSouth, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.

2. NewSouth stipulates and agrees that any Certificate which may be granted will authorize NewSouth to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.

3. NewSouth stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. NewSouth stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and until NewSouth provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, NewSouth acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. NewSouth stipulates and agrees that if, after NewSouth gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or the Commission institutes a proceeding of its own, then NewSouth will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. NewSouth acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs, and this Stipulation in no way suspends or adversely

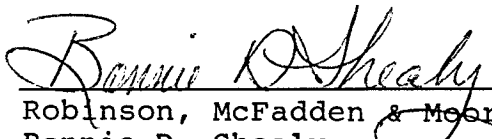
affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. NewSouth agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.


9. NewSouth hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 8th day of December, 1997

NewSouth Communications, LLC


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Attorneys for the South Carolina
Telephone Coalition

ATTACHMENT A

South Carolina Telephone Coalition Member Companies
for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.
Bluffton Telephone Company, Inc.
Chesnee Telephone Company
Chester Telephone Company
Farmers Telephone Cooperative, Inc.
Ft. Mill Telephone Company
Hargray Telephone Company, Inc.
Heath Springs Telephone Company Inc.
Home Telephone Company, Inc.
Horry Telephone Cooperative, Inc.
Lancaster Telephone Company
Lockhart Telephone Company
McClellanville Telephone Company
Norway Telephone Company
Palmetto Rural Telephone Cooperative, Inc.
Piedmont Rural Telephone Cooperative, Inc.
Pond Branch Telephone Company
Ridgeway Telephone Company
Rock Hill Telephone Company
Sandhill Telephone Cooperative, Inc.
St. Stephen Telephone Company
West Carolina Rural Telephone Cooperative, Inc.
Williston Telephone Company

ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS FOR INTEREXCHANGE COMPANIES AND AOS'S

COMPANY NAME

FEI NO.

ADDRESS

CITY, STATE, ZIP CODE

PHONE NUMBER

(1) SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.

(2) SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.

(3) RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS* FOR
12 MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.

* THIS WOULD INCLUDE GROSS PLANT, ACCUMULATED DEPRECIATION,
MATERIALS AND SUPPLIES, CASH WORKING CAPITAL, CONSTRUCTION WORK IN
PROGRESS, ACCUMULATED DEFERRED INCOME TAX, CONTRIBUTIONS IN AID OF
CONSTRUCTION AND CUSTOMER DEPOSITS.

(4) PARENT'S CAPITAL STRUCTURE* AT DECEMBER 31 OR FISCAL YEAR ENDING
_____.

* THIS WOULD INCLUDE ALL LONG TERM DEBT (NOT THE CURRENT PORTION
PAYABLE), PREFERRED STOCK AND COMMON EQUITY.

(5) PARENT'S EMBEDDED COST PERCENTAGE (%) FOR LONG TERM DEBT AND
EMBEDDED COST PERCENTAGE (%) FOR PREFERRED STOCK AT YEAR ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.

(6) ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE AMOUNT
OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS WELL AS
METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT (SEE #3
ABOVE).

SIGNATURE

NAME (PLEASE TYPE OF PRINT)

TITLE

DOCKET NO. 97-467-C - ORDER NO. 98-165
MARCH 5, 1998
ATTACHMENT B

**INFORMATION OF THE AUTHORIZED UTILITY
REPRESENTATIVES FOR INTEREXCHANGE, LOCAL
AND AOS COMPANIES**

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION
REGULATION 103-612.2.4(b), each utility shall file and maintain with the Commission
the name, title, address, and telephone number of the persons who should be contacted in
connection with Customer Relations/Complaints.

Company Name/DBA Name

Business Address

City, State, Zip Code

Authorized Utility Representative (Please Print or Type)

Telephone Number

Fax Number

E-Mail Address

This form was completed by Signature

If you have any questions, contact the Consumer Services Department at 803-737-5230